



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/01433/2017**

Appeal Number:

THE IMMIGRATION ACTS

Heard at : IAC Birmingham

Decision & Reasons

On 12 June 2017

Promulgated

On 16 June 2017

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

AHMED SALEEM

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No Appearance

For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision of 27 January 2017 to refuse his protection and human rights claim.

2. The appellant is a citizen of Pakistan, born on 23 September 1985. He arrived in the UK in December 2010 with a Tier 4 student visa valid until 6 May 2012 and was subsequently granted further leave until 30 October 2015. On 4 February 2015 his leave was curtailed to expire on 10 April 2015. He claimed asylum on 8 December 2016 after being encountered by the police, arrested and served with papers as an overstayer. He was interviewed about his asylum

claim and made further representations, relying upon a Rule 35 report. His claim was refused on 27 January 2017.

3. The appellant appealed against that decision and his appeal was heard in the First-tier Tribunal on 8 March 2017 and was dismissed in a decision promulgated on 22 March 2017. Permission was granted on 20 April 2017.

The Appellant's Case

4. The appellant's claim is based upon a land dispute between his father and uncle which began in 2010 when his uncle wanted to take over his father's five shops in Lahore. His uncle claimed to have bought the shops in 2005 whereas his father claimed to have inherited/ bought them from his grandfather. Between 2010 and 2014 there was discussion about the matter but the problem did not escalate beyond verbal abuse until 24 July 2014. At that time the appellant was in Pakistan, having gone there from July to 6 August 2014 before returning to the UK. On 24 July 2014 the appellant was closing his father's shop when eight men entered and attacked him and his workers. He reported the matter to the police with his father but they refused to lodge an FIR because they said his uncle was a respectable man. Instead the police claimed there was an outstanding report against him accusing him of attacking three men and they arrested him. He was detained for one day and one night and was beaten. His father came with a lawyer to secure his release. He did not know if there were outstanding charges against him when he was released. On 24 August 2014 his uncle's five year old son was shot and killed and the appellant was implicated in his murder. His father told him that an arrest warrant had been issued against him and the police came to his family home on 28 August 2014 looking for him. His uncle attacked his family on three or four occasions but the incident of 24 July 2014 was the only significant one. The appellant said that his father passed away on 13 March 2015 and his grandfather on 10 June 2015.

5. The respondent, in refusing the appellant's claim, noted that the appellant had submitted three FIRs and some newspaper article in support of his claim, but did not give them any weight. The respondent referred to the Rule 35 report produced by the appellant and considered that the account given there for the appellant's injuries were inconsistent with the account he had given in support of his claim. The respondent rejected the appellant's account of the problems with his uncle and concluded that he would be at no risk on return to Pakistan. It was not accepted that his removal to Pakistan would breach his human rights.

6. The appellant's appeal against that decision was heard by First-tier Tribunal Judge Telford. The judge heard from the appellant but did not find his account to be credible and concluded that he was an economic migrant and that the documentary evidence was of no weight. He considered that the appellant would be at no risk on return and that his removal to Pakistan would not breach his human rights. He dismissed the appeal on all grounds.

7. The appellant sought permission to appeal Judge Telford's decision to the Upper Tribunal. Permission to appeal was granted in relation to the Rule 35

report on the grounds that the judge ought arguably to have accorded some weight to the report and arguably erred by expecting the appellant to provide corroborative medical evidence.

8. The appeal came before me on 12 June 2017. There was no appearance by or on behalf of the appellant. I noted that he was not legally represented. The file records showed that he had been released from detention on 28 April 2017 following the grant of permission and that the notice of hearing had been served on him at the address to which he had been released. That was the current address also held by the respondent, as Mr Mills confirmed. Accordingly it appeared that the notice of hearing had been properly served on the appellant and, in the absence of any explanation for his absence, I considered there to be no reason not to proceed with the appeal and hear submissions from Mr Mills.

9. Mr Mills relied on the Rule 24 response which had been filed by the respondent on 4 May 2017. He submitted that the judge's reference to corroboration in relation to the appellant's injuries was consistent with the findings in TK (Burundi) v Secretary of State for the Home Department [2009] EWCA Civ 40 since this was a case where supporting medical evidence could reasonably have been obtained from a GP in the UK but had not been provided. The judge was entitled to draw the adverse conclusion that he did from the appellant's failure to obtain such evidence and he properly dealt with the medical point.

Consideration and findings.

10. I am entirely in agreement with Mr Mills, that Judge Telford made no error of law in placing the limited weight that he did upon the Rule 35 report and the medical evidence from Pakistan as evidence of torture suffered by the appellant owing to the absence of any further independent evidence from a medical expert in the UK.

11. As Judge Telford indicated at [24], the Rule 35 report said little more than that the appellant had told the medical practitioner that he had suffered from torture and simply recounted the appellant's own explanation for the scars on his body, concluding that the scars "may be due to the history given". The medical evidence from Pakistan was simply a record of injuries on the appellant's body. What the judge found to be missing, in order for that evidence to be given any material weight, was expert medical evidence confirming that the injuries had been caused in the manner claimed by the appellant. The judge's adverse findings based upon the absence of such evidence was entirely consistent with the approach taken by the Court of Appeal in TK (Burundi) which emphasised how important it was for independent supporting evidence to be provided where it would ordinarily be available. That was particularly so when, as in the appellant's case, there were various other reasons for doubting the reliability of the evidence as a whole, in particular his adverse immigration history, the timing of his asylum claim and the circumstances under which he made his claim, together with the concerns identified by the judge at [19] in relation to the other documentary evidence.

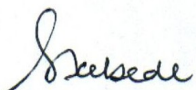
12. Judge Telford plainly undertook a full and careful assessment of the appellant's evidence as a whole and provided full and proper reasons for making the credibility findings that he did. The adverse conclusions that he reached were fully and properly open to him on the evidence before him. For all of these reasons I conclude that the grounds of appeal do not disclose any errors of law in the First-tier Tribunal's decision.

DECISION

13. The appellant's appeal is accordingly dismissed. The making of the decision of the First-tier Tribunal did not involve an error on a point of law. I do not set aside the decision. The decision to dismiss the appellant's appeal therefore stands.

Anonymity

The First-tier Tribunal made an order for anonymity. I see no reason for anonymity in this case and therefore discharge the order, pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed 
Upper Tribunal Judge Kebede
2017

Dated: 12 June